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8 UNITED STATES DISTRICT COURT
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10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 PHOENIX SOLUTIONS, INC., a California
13 corporation,

14 Plaintiff,

15 v.

16 WELLS FARGO BANK, N.A., a Delaware
17 corporation

18 Defendant.
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Case No. CV 08-0863 MHP

**[PROPOSED] ORDER GRANTING
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT OF
INVALIDITY OF ASSERTED CLAIMS**

Date: November 10, 2008

Time: 2:00 p.m.

Dept: Courtroom 15, 18th Floor

Judge: Hon. Marilyn Hall Patel

Date Comp. Filed: February 8, 2008

Trial Date: TBD

1 Presently before the Court is Defendant Wells Fargo Bank, N.A.,’s motion for summary
2 judgment of invalidity as to claims 11, 17, 20 and 21 of U.S. Patent No. 6,633,846, claims 1, 3,
3 4, and 7 of U.S. Patent No. 6,665,640, claims 1, 6, 7 and 10 of U.S. Patent No. 7,050,977 and
4 claims 1, 7-9, 12, 15, 19-23, and 27-29 of U.S. Patent No. 7,277,854 (collectively, “Asserted
5 Claims”).

6 Having considered Wells Fargo’s motion papers, including all supporting declarations
7 and other materials, and any opposition and reply papers, argument of counsel, and the case
8 record, the Court hereby finds as follows:

- 9 • The Asserted Claims are anticipated by the sale and use of the Nuance Speech
10 Recognition System more than a year prior to the filing date of the patents in suit,
11 and therefore are invalid.

12 **IT IS HEREBY ORDERED** Wells Fargo’s motion for summary judgment of invalidity of
13 asserted claims **IS GRANTED**.

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15 Dated: _____, 2008

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HON. MARILYN HALL PATEL
United States District Court Judge